

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SALVATORE ROSSI, on behalf of himself and all  
others similarly situated,

Plaintiff,

-against-

OSI COLLECTION SERVICES, INC. and JOHN AND  
JANE DOES NUMBERS 1 THROUGH 25, SAID  
PERSONS BEING NAMED HEREIN AS THE  
PERSONS WHO ALSO CONTROL THE POLICIES  
AND PRACTICES INVOKED BY OSI COLLECTION  
SERVICES, INC.,

Defendants.

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**ANSWER**

08 CV 00257  
(Judge Sweet)

The defendant, **OSI COLLECTION SERVICES, INC.**, by its attorneys, The Law  
Offices of Edward Garfinkel, as and for an answer to the complaint of the Plaintiff herein,  
respectfully alleges upon information and belief:

**I. PRELIMINARY STATEMENT**

**FIRST**: Denies paragraph 1 of the complaint and respectfully refers all questions of law  
to the court.

**II. JURISDICTION**

**SECOND**: Denies paragraph 2 of the complaint and respectfully refers all questions of  
law to the court.

**III. PARTIES**

**THIRD**: Denies paragraph 4 of the complaint except admits OSI COLLECTION  
SERVICES, INC., is a Delaware corporation authorized to do business within the State of New  
York, and maintains offices in several places in the United States and is engaged in the business

of collecting debts which are in default, and denies knowledge or information as to the remaining allegations and refers all questions of law to the Court.

**FOURTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph **3** of the complaint.

**FIFTH:** Denies paragraph **6** of the complaint.

**SIXTH:** Denies paragraph **5** of the complaint and respectfully refers all questions of law to the court.

#### **IV. FACTS RELATED TO THE NAMED PLAINTIFF**

**SEVENTH:** Denies paragraph **14** of the complaint.

**EIGHTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **7, 8** of the complaint and respectfully refers all questions of law to the court.

**NINTH:** Denies paragraph **9** of the complaint and respectfully refers all questions of law to the court.

**TENTH:** Denies each and every allegation set forth in paragraph **11** of the complaint except admits that said letter sets forth the advisement “Notice of Intent to Sue”.

**ELEVENTH:** Denies each and every allegation set forth in paragraph **12** of the complaint except admits that said letter sets forth the advisement “Unless you resolve this matter with OSI Collection Services, Inc., we will forward your account to an attorney 10 days after the date of this notice with the intention of filing a lawsuit seeking judgment against you for the full amount you owe.”

**TWELFTH:** Denies each and every allegation set forth in paragraph **13** of the complaint except admits that said letter sets forth the advisement, “A finding by the court in favor of

AMERICAN EXPRESS COMPANY may add substantially to your costs in the form of interest and court costs.”

**THIRTEENTH**: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph **10** of the complaint and respectfully refers all questions of law to the Court, except admits the defendant, OSI, caused a letter dated July 26, 2007 to be sent to the person named therein and begs leave to refer to the original document.

**POLICIES AND PRACTICES COMPLAINED OF**

**FOURTEENTH**: Denies paragraph **15** of the complaint.

**VI. CLASS ALLEGATIONS**

**FIFTEENTH**: Denies paragraphs **16, 17, 18, 19, 20, 21, 22** of the complaint and respectfully refers all questions of law to the court.

**VII. CLASS CLAIMS FOR RELIEF**

**SIXTEENTH**: Denies paragraph **23** and all its subsections of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

Any alleged violations of the Fair Debt Collection Practices Act were not intentional, but resulted from a Bona Fide error notwithstanding the maintenance of procedures reasonably implemented to prevent such errors.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

This action does not satisfy the prerequisites for a class action pursuant to rule 23(a) of the Federal Rules of Civil Procedure, nor is it maintainable as a class action pursuant to Rule 23(b) of the Federal Rules of Civil Procedure.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

The class action form of litigation is inappropriate and not the superior means of litigating the alleged claims.

## **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

Plaintiff fails to state facts sufficient to state a cause of action.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

Plaintiff is an inappropriate class representative.

WHEREFORE, the defendant, **OSI COLLECTION SERVICES, INC.**, demands judgment dismissing the Complaint and further demands judgment over and against the Plaintiff, for the amount of any judgment obtained against this defendant, **OSI COLLECTION SERVICES, INC.**, by the Plaintiff or on the basis of apportionment of responsibility in such amounts as a jury or Court may direct together with costs, disbursements, and expenses of this action including attorneys' fees.

Dated: New York, New York  
February 15, 2008

Yours etc.,  
The Law Offices of Edward Garfinkel  
Attorneys for Defendant,  
**OSI COLLECTION SERVICES, INC.**

By: S/  
Kevin Barry McHugh (KBM-5924)  
110 William Street  
New York, New York 10038-3901  
(212) 809-8000  
Our File No.: NYNY 27138

TO:  
ROBERT L. ARLEO, ESQ.  
Attorney for Plaintiff  
164 Sunset Park Road  
Haines Falls, New York 12436  
(518) 589-5264

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 15, 2008 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants.

\_\_\_\_s/\_\_\_\_\_  
Kevin Barry McHugh

TO:

ROBERT L. ARLEO, ESQ.  
Attorney for Plaintiff  
164 Sunset Park Road  
Haines Falls, New York 12436  
(518) 589-5264